



February 15, 2002

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## ENGROSSED SENATE BILL No. 482

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DIGEST OF SB 482 (Updated February 14, 2002 12:56 PM - DI 107)

**Citations Affected:** IC 35-42; noncode.

**Synopsis:** Child solicitation and public masturbation. Provides that a person commits child solicitation if the person solicits an individual whom the person believes to be less than 14 years of age to engage in sexual acts. Provides that, in a prosecution for child solicitation, the state is not required to prove that the person solicited the child to perform an illicit act at some immediate time. Provides that a person commits public masturbation if the person touches or fondles himself in the presence of a child with the intent to arouse or satisfy the sexual desires of the child or person.

**Effective:** July 1, 2002.

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**Bray, Waterman, Long, Zakas, Wyss,  
Alexa**

(HOUSE SPONSORS — DVORAK, ATTERHOLT)

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January 14, 2002, read first time and referred to Committee on Judiciary.  
January 24, 2002, reported favorably — Do Pass.  
January 28, 2002, read second time, ordered engrossed. Engrossed.  
January 31, 2002, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Human Affairs.  
February 14, 2002, amended, reported — Do Pass.

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February 15, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED SENATE BILL No. 482

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-42-4-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) A person  
3 eighteen (18) years of age or older who knowingly or intentionally  
4 directs, aids, induces, or causes a child under the age of sixteen (16) to  
5 touch or fondle himself or another child under the age of sixteen (16)  
6 with intent to arouse or satisfy the sexual desires of a child or the older  
7 person commits vicarious sexual gratification, a Class D felony.  
8 However, the offense is:  
9 (1) a Class C felony if a child involved in the offense is under the  
10 age of fourteen (14);  
11 (2) a Class B felony if:  
12 (A) the offense is committed by using or threatening the use of  
13 deadly force or while armed with a deadly weapon; or  
14 (B) the commission of the offense is facilitated by furnishing  
15 the victim, without the victim's knowledge, with a drug (as  
16 defined in IC 16-42-19-2(1)) or a controlled substance (as  
17 defined in IC 35-48-1-9) or knowing that the victim was

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furnished with the drug or controlled substance without the victim's knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen

(16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

**(c) A person eighteen (18) years of age or older who knowingly or intentionally touches or fondles himself in the presence of a child less than sixteen (16) years of age with the intent to arouse or satisfy the sexual desires of a child or the older person commits public masturbation, a Class D felony.**

SECTION 2. IC 35-42-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **(a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:**

**(1) in person;**

**(2) by telephone;**

**(3) in writing;**

**(4) by using a computer network (as defined in IC 35-43-2-3(a));**

**(5) by advertisement of any kind; or**

**(6) by any other means;**

**to perform an act described in subsection (b).**

**(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14)**

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1 **years of age, to engage in:**

2 (1) sexual intercourse;

3 (2) deviate sexual conduct; or

4 (3) any fondling or touching intended to arouse or satisfy the  
5 sexual desires of either the child or the older person;

6 commits child solicitation, a Class D felony. However, the offense is  
7 a Class C felony if it is committed by using a computer network (as  
8 defined in IC 35-43-2-3(a)).

9 **(c) In a prosecution under this section, including a prosecution**  
10 **for attempted solicitation, the state is not required to prove that the**  
11 **person solicited the child to engage in an act described in**  
12 **subsection (b) at some immediate time.**

13 SECTION 3. [EFFECTIVE JULY 1, 2002] IC 35-42-4-6, as  
14 amended by this act, applies only to acts committed after June 30,  
15 2002.

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SENATE MOTION

Mr. President: I move that Senator Waterman be added as coauthor of Senate Bill 482.

BRAY

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SENATE MOTION

Mr. President: I move that Senators Long and Zakas be added as coauthors of Senate Bill 482.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 482, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 482 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred Senate Bill 482, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-42-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is

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facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

**(c) A person eighteen (18) years of age or older who knowingly or intentionally touches or fondles himself in the presence of a child less than sixteen (16) years of age with the intent to arouse or satisfy the sexual desires of a child or the older person commits public masturbation, a Class D felony."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 482 as printed January 25, 2002.)

SUMMERS, Chair

Committee Vote: yeas 14, nays 0.

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